

REMARKS

The Examiner is thanked for the careful review of this application. Claims 1-19 are pending in the present application. In the subject paper, amendments have been made to the specification to correct minor typographical errors. Amendments have been made to the claims to correct typographical errors and to better define the claimed subject matter. Amendments to the specification and the claims do not introduce new matter. Therefore, after entry of the above amendments, claims 1-19 will be pending in the subject application. The Applicants believe that the present application is now in condition for allowance, which prompt and favorable action is respectfully requested.

Rejection under 35 USC § 112

The Office has rejected claims 1, 7, 11, and 19 under 35 USC § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicants regard as the invention. Specifically, claims 1, 7, 11, and 19 have been rejected for being unclear as to the features “providing a negotiation forum between a delivery entity and a receiver entity,” “receiving metadata associated with an application from a delivery entity,” and “presenting the metadata associated with the application to the receiver entity.”

To overcome the claim rejections under 35 USC § 112, second paragraph, the Applicants have amended claims 1, 7, and 11 to specifically recite the feature “receiving, at the negotiation forum, metadata associated with an application from a delivery entity.” It is respectfully submitted that, as amended, claims 1, 7, and 11 are clear as to the negotiation forum receiving the metadata and presenting the metadata to the receiver entity.

In view of the clarifying amendments, the Applicants respectfully request that rejection of claims 1, 7, and 11 under 35 USC § 112, second paragraph be withdrawn.

The Applicants respectfully submit that the Office’s rejection of claim 19 under 35 USC § 112, second paragraph, could not be addressed by the Applicants, as independent claim 19 does not include the objected to terms negotiation forum, delivery entity, or the receiving entity. As independent claim 19 does not include such terms, the Applicants respectfully request that rejection of claim 19 under 35 USC § 112, second paragraph be withdrawn.

Rejection of Claims under 35 USC § 102

The Office has rejected claims 1-19 under 35 USC § 102(e) as being anticipated by US Patent No. 6,792,280 to Hori et al. (“Hori”). The Applicants respectfully traverse the Office’s interpretation, as Hori fails to disclose each and every feature of independent claim 19 and the amended independent claims 1, 7, 11, and 15 for at least the following reasons:

For instance, independent claims 1, 7, and 11 respectively recite a method, system, and a computer-readable medium for performing automated distribution and billing. Specifically, independent claims 1, 7, and 11 recite the features “providing a negotiation forum between a delivery entity and a receiver entity,” “receiving, at the negotiation forum, metadata associated with an application from a delivery entity,” “configuring a catalog for the receiving entity associating the application and the metadata in a central repository,” “sending the catalog information to the receiver entity,” “receiving indication that a transaction of the application has occurred,” and “transmitting billing information to the receiver entity.”

Citing to the abstract and columns 1-4, 6, 8, 17, and 18 of Hori, the Office has interpreted that Hori discloses each and every feature of claims 1, 7, 11, and 19. The Applicants respectfully traverse the Office’s interpretation as Hori is directed at an information delivery system wherein music information can be gifted from one person to another. In Hori, the information delivery system includes a delivery server, a requesting cellular telephone, and a designated cellular telephone. A requesting cellular telephone can access the delivery system and request the delivery of content data onto the requesting cellular telephone or to a designated cellular telephone.

It is respectfully submitted that among other features, Hori fails to disclose the feature “providing negotiation forum between the delivery entity and the receiver entity” or “receiving, at the negotiation forum, metadata associated with an application from a delivery entity.” In contrast, Hori discloses a delivery sever and two portable communication terminals. It is respectfully submitted that contrary to the Office’s interpretation, the delivery server is not the same as nor provides the same functionality as the negotiation forum of the subject claims. For instance, the delivery server of Hori (the alleged negotiation forum) does not receive the music (the alleged application) and the delivery information (the alleged metadata associated with the

application) from the portable communication terminal (the alleged delivery entity). Rather, the opposite occurs in the information delivery system disclosed in Hori. Particularly, in Hori, the delivery server (the alleged negotiation forum) sends the music to the portable communication terminal (the alleged delivery entity).

Additionally, in the subject claims, metadata associated with the application is received at the negotiation forum. Contrary to the subject claims, in Hori, the delivery information is received at the delivery server. It is respectfully submitted that the delivery information is described to be information regarding the destination terminal information, delivery day, and hour of delivery of the data. As such, the delivery information is not related to the music being sent. Therefore, the delivery information is different from the metadata associated with the application, as recited in the subject claims.

Furthermore, because the delivery information of Hori is not the same as metadata of the subject claims, Hori further fails to disclose or suggest the feature “presenting the metadata associated with the application to the receiver entity.”

Still further, Hori fails to disclose (or suggest) the feature “configuring a catalog for the receiving entity associating the application and the metadata in a central repository” and “sending the catalog information to the receiver entity.” Rather, Hori is silent as to configuring a catalog or associating the application and the metadata. In fact, even if Hori disclosed a catalog (a proposition with which the Applicants disagree), the alleged catalog would be configured based on the music and the destination information. However, as described earlier, the music and destination information of Hori are not the same as the metadata of the subject claims.

In rejecting the claims, the Office has interpreted that the coupon disclosed in Hori is the same as the catalog of the subject claims. The Applicants respectfully traverse the Office’s interpretation as the coupon of Hori is generated based upon the destination information, and not the metadata. As described in more detail previously, the destination information is information about the destination portable communication device, and is not associated with the music (the alleged application).

Yet further, contrary to the Office’s interpretation, there is no disclosure (or suggestion) in Hori as to the feature “transmitting billing information to the receiver entity.” Rather, the

excerpts of Hori cited by the Office are silent as to transmitting the billing information to the receiver entity. In fact, the opposite is true, as Hori is directed at giving music to others as a present. As such, Hori impliedly discloses that the billing information is not transmitted to the cell phone receiving the present.

In the same manner, Hori fails to disclose each and every feature of independent claim 11, as amended. Among other features, independent claim 11 recites “an extranet accessible by multiple carriers and multiple developers used as a negotiation forum,” “a server having a central repository that stores metadata associated with an application,” “a transaction server operable to receive transaction data associated with the downloading of the application and, using the metadata, operable to determine billing information associated with the downloading of the application.” It is respectfully submitted that there is no disclosure (or suggestion) in Hori as to an extranet, carriers, or developers. Additionally, as described in more detail earlier, there is no disclosure (or suggestion) in Hori as to a server having a central repository that stores metadata associated with an application or a server operable to determine billing information associated with the downloading of the application.

Likewise, Hori fails to disclose (or suggest) each and every feature of independent claim 19. For instance, as described in more detail earlier, among other features, Hori fails to disclose “a local processor connected to the centralized processor and operable to receive catalog data and the application from the centralized processor, to transmit the catalog and application to the wireless device, and to record transaction data associated with the transmission of the application,” or “a transaction server connected to the centralized processor and the local processor and operable to receive metadata information from the centralized processor, receive transaction data from the local processor, and process the metadata information and transaction data for billing.”

Based on the forgoing, the Applicants respectfully submit that Hori fails to disclose each and every feature of claims 1-19, as amended herein. As such, it is respectfully requested that the Office kindly withdraw the rejection of claims 1-19 under 35 USC 102(e).

CONCLUSION

In light of the amendments contained herein, Applicants submit that the application is in condition for allowance, for which early action is requested.

Please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026.

Respectfully submitted,

Dated July 15, 2007

:

By: /Fariba Yadegar-Bandari/

Fariba Yadegar-Bandari

Reg. No. 53,805

(858) 651-0397

QUALCOMM Incorporated
Attn: Patent Department
5775 Morehouse Drive
San Diego, California 92121-1714
Telephone: (858) 658-5787
Facsimile: (858) 658-2502